

FILED  
U.S. DISTRICT COURT  
*SEP -2 A 8:01*

IN THE UNITED STATES COURT FOR THE DISTRICT OF ~~UTAH~~  
CENTRAL DIVISION

*DISTRICT OF UTAH*

*BY: DEPUTY CLERK*

ERIC G. EGBERT,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

ORDER GRANTING MOTION  
TO VACATE OR CORRECT SENTENCE  
PURSUANT TO 28 U.S.C. § 2255

Case No. 2:09-CV-511 DB  
*Related Case No. 2:06-CR-406 DB*

This matter is before the Court on Petitioner Eric G. Egbert's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody. (Dkt. No. 1.) On August 20, 2009, the government responded to the motion, indicating that given the unique facts of the case, it did not oppose Mr. Egbert's motion and agreed with the requested relief. (Dkt. No. 4.) More specifically, the government acknowledged that given the disparate sentences between co-defendants resulting from the Tenth Circuit's decision in the related case of United States v. Egbert, Walker and Massey, 562 F.3d 1092 (10<sup>th</sup> Cir. 2009), the requested relief was appropriate under the circumstances.

Based on the foregoing, and having fully reviewed the record in this case, the Court grants Mr. Egbert's motion to Correct and/or Vacate his sentence and hereby reduces Mr. Egbert's sentence from 42 to 33 months. Having so concluded, the Court will issue an Amended

Judgment in a Criminal Case, consistent with this Order, indicating that “[t]he defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 33 months.” Upon release from imprisonment Mr. Egbert shall begin serving his 36-month term of supervised release.

It is so ordered.

Dated this 1<sup>st</sup> day of Sept., 2009.

Dee Benson  
Dee Benson  
United States District Judge